

AN ACT

relating to sex offender treatment and civil commitment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 110.001, Occupations Code, is amended by amending Subdivisions (6) and (7) and adding Subdivision (8) to read as follows:

(6) "Sex offender" means a person who:

(A) is convicted of committing or adjudicated to have committed a sex crime under state or federal law;

(B) is awarded deferred adjudication for a sex crime under state or federal law; or

(C) is convicted of, adjudicated to have committed, or awarded deferred adjudication for an offense that is based on sexually motivated conduct [~~admits to having violated state or federal law with regard to sexual conduct, or~~

~~[(D) experiences or evidences a paraphiliac disorder as defined by the Revised Diagnostic and Statistical Manual, including any subsequent revision of that manual].~~

(7) "Sex offender treatment provider" means a person, licensed by the council and recognized based on training and experience to provide assessment and treatment to adult sex offenders or juveniles with sexual behavioral problems who have been convicted, adjudicated, awarded deferred adjudication, or referred by a state agency or a court, and licensed in this state

1 ~~[or certified]~~ to practice as ~~[in this state, including]~~ a  
2 physician, psychiatrist, psychologist, psychological associate,  
3 provisionally licensed psychologist, licensed professional  
4 counselor, licensed professional counselor intern, licensed  
5 marriage and family therapist, licensed marriage and family  
6 associate, licensed clinical social worker, licensed master ~~[or]~~  
7 social worker under a clinical supervision plan approved by the  
8 Texas State Board of Social Worker Examiners, or advanced practice  
9 nurse recognized as a psychiatric clinical nurse specialist or  
10 psychiatric mental health nurse practitioner, who provides mental  
11 health or medical services for rehabilitation of sex offenders.

12 (8) "Sexually motivated conduct" has the meaning  
13 assigned by Section 841.002, Health and Safety Code.

14 SECTION 2. Subchapter A, Chapter 110, Occupations Code, is  
15 amended by adding Section 110.002 to read as follows:

16 Sec. 110.002. APPLICATION OF CHAPTER. (a) This chapter  
17 does not apply to a person licensed to practice in this state who  
18 provides adjunct therapy.

19 (b) This chapter does not apply to the prescribing of a  
20 drug, remedy, or clinical supply by a physician licensed under  
21 Subtitle B.

22 SECTION 3. Section 110.158, Occupations Code, is amended to  
23 read as follows:

24 Sec. 110.158. RULEMAKING. (a) The council may adopt rules  
25 consistent with this chapter. In adopting rules, the council  
26 shall:

27 (1) consider the rules and procedures of the board and

1 the department; and

2 (2) adopt procedural rules consistent with similar  
3 existing rules and procedures of the board or the department.

4 (b) A sex offender treatment provider licensed under this  
5 chapter is subject to the rules of the council, in relation to the  
6 person's provision of sex offender treatment, rather than the rules  
7 of the licensing entity by which the provider is licensed or  
8 otherwise regulated. A sex offender treatment provider who acts in  
9 conformance with the rules, policies, and procedures of the council  
10 is not subject to any administrative sanction against the provider  
11 by the licensing entity by which the provider is licensed or  
12 otherwise regulated.

13 SECTION 4. Section 110.301, Occupations Code, is amended by  
14 amending Subsection (a) and adding Subsection (c) to read as  
15 follows:

16 (a) A person may not provide sex offender treatment [~~a~~  
17 ~~rehabilitation service~~] or act as a sex offender treatment provider  
18 unless the person is licensed under this chapter.

19 (c) This section does not apply to a physician whose  
20 treatment of a sex offender is limited to prescribing medication to  
21 the sex offender.

22 SECTION 5. Section 841.002, Health and Safety Code, is  
23 amended by amending Subdivisions (1) and (5) and adding Subdivision  
24 (3-a) to read as follows:

25 (1) "Attorney representing the state" means an  
26 attorney employed by the civil division of the special [~~prison~~]  
27 prosecution unit to initiate and pursue a civil commitment

1 proceeding under this chapter.

2 (3-a) "Civil commitment proceeding" means a trial or  
3 hearing conducted under Subchapter D, F, or G.

4 (5) "Predatory act" means an act [~~that is committed~~  
5 ~~for the purpose of victimization and that is~~] directed toward  
6 individuals, including family members, [+

7 (A) a stranger,

8 (B) a person of casual acquaintance with whom no  
9 substantial relationship exists; or

10 (C) a person with whom a relationship has been  
11 established or promoted] for the primary purpose of victimization.

12 SECTION 6. Section 841.004, Health and Safety Code, is  
13 amended to read as follows:

14 Sec. 841.004. SPECIAL [PRISON] PROSECUTION UNIT. The civil  
15 [A special] division of the special [prison] prosecution unit,  
16 separate from that part of the unit responsible for prosecuting  
17 criminal cases, is responsible for initiating and pursuing a civil  
18 commitment proceeding under this chapter.

19 SECTION 7. Section 841.061, Health and Safety Code, is  
20 amended by adding Subsection (g) to read as follows:

21 (g) A judge assigned to preside over a trial under this  
22 subchapter is not subject to an objection under Section 74.053,  
23 Government Code, other than an objection made under Section  
24 74.053(d), Government Code.

25 SECTION 8. Section 841.085, Health and Safety Code, is  
26 amended to read as follows:

27 Sec. 841.085. CRIMINAL PENALTY; PROSECUTION OF OFFENSE.

1 (a) A person commits an offense if, after having been adjudicated  
2 and civilly committed as a sexually violent predator under this  
3 chapter, the person violates a civil commitment requirement imposed  
4 under Section 841.082.

5 (b) An offense under this section is a felony of the third  
6 degree.

7 (c) At the request of the local prosecuting attorney, an  
8 attorney employed by the civil division of the special prosecution  
9 unit described by Section 841.004 may assist in the trial of an  
10 offense under this section.

11 SECTION 9. Section 841.147, Health and Safety Code, is  
12 amended to read as follows:

13 Sec. 841.147. IMMUNITY. The following persons are immune  
14 from liability for good faith conduct under this chapter:

15 (1) an employee or officer of the Texas Department of  
16 Criminal Justice, the ~~[Texas]~~ Department of State Health Services  
17 ~~[Mental Health and Mental Retardation]~~, the Department of Aging and  
18 Disability Services ~~[Texas Department of Health]~~, or the council;

19 (2) a member of the multidisciplinary team established  
20 under Section 841.022;

21 (3) an employee of the civil division of the special  
22 ~~[prison]~~ prosecution unit charged with initiating and pursuing  
23 civil commitment proceedings under this chapter; and

24 (4) a person providing, or contracting, appointed, or  
25 volunteering to perform, a tracking service or another service  
26 under this chapter.

27 SECTION 10. Chapter 13, Code of Criminal Procedure, is

1 amended by adding Article 13.315 to read as follows:

2 Art. 13.315. FAILURE TO COMPLY WITH SEXUALLY VIOLENT  
3 PREDATOR CIVIL COMMITMENT REQUIREMENT. An offense under Section  
4 841.085, Health and Safety Code, may be prosecuted in the county in  
5 which any element of the offense occurs or in Montgomery County.

6 SECTION 11. Section 110.001(5), Occupations Code, is  
7 repealed.

8 SECTION 12. (a) Except as provided by Subsection (b) of  
9 this section, the change in law made by this Act applies only to an  
10 individual who on or after September 1, 2007, is serving a sentence  
11 in the Texas Department of Criminal Justice or is committed to the  
12 Department of State Health Services or the Department of Aging and  
13 Disability Services for an offense committed before, on, or after  
14 the effective date of this Act.

15 (b) The change in law made by this Act in adding Section  
16 841.061(g), Health and Safety Code, applies to a petition alleging  
17 predator status that is filed on or after the effective date of this  
18 Act.

19 SECTION 13. (a) Except as provided by Subsection (b) of  
20 this section, this Act takes effect September 1, 2007.

21 (b) Notwithstanding any other provision of this Act,  
22 Section 841.061(g), Health and Safety Code, as added by this Act,  
23 takes effect immediately if this Act receives a vote of two-thirds  
24 of all the members elected to each house, as provided by Section 39,  
25 Article III, Texas Constitution. If this Act does not receive the  
26 vote necessary for immediate effect, that section takes effect  
27 September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2034 was passed by the House on May 11, 2007, by the following vote: Yeas 136, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2034 on May 24, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2034 on May 27, 2007, by the following vote: Yeas 142, Nays 2, 2 present, not voting.

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Chief Clerk of the House

H.B. No. 2034

I certify that H.B. No. 2034 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2034 on May 26, 2007, by the following vote: Yeas 29, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor